

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

LIQWD, INC. and OLAPLEX LLC,)	
)	
Plaintiffs,)	
)	
v.)	C.A. No. 17-14-JFB-SRF
)	
L'ORÉAL USA, INC., L'ORÉAL USA)	
PRODUCTS, INC., L'ORÉAL USA S/D, INC.,)	
and REDKEN 5 TH AVENUE NYC, LLC,)	
)	
Defendants.)	

**DEFENDANTS L'ORÉAL USA, INC., L'ORÉAL USA PRODUCTS, INC.,
L'ORÉAL USA S/D, INC., AND REDKEN 5TH AVENUE NYC, LLC'S
REQUEST FOR JUDICIAL NOTICE IN SUPPORT OF
MOTION TO DISMISS SECOND AMENDED COMPLAINT**

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Dated: June 12, 2018

Pursuant to Rule 201 of the Federal Rules of Evidence, defendants L'Oréal USA, Inc. and subsidiaries L'Oréal USA Products, Inc., L'Oréal USA S/D, Inc., and Redken 5th Avenue NYC, LLC (collectively, "L'Oréal USA") respectfully request that the Court take judicial notice of the document listed below and attached hereto.

Exhibit A: Relevant portions from the Deposition of Edward T. Borish, PhD., taken on January 5, 2018, in the post-grant review proceedings currently pending before Patent Trial Appeal Board.

This document provides the Court with relevant portions of the testimony from Plaintiffs' expert in the concurrent post-grant review before the Patent Trial Appeal Board regarding United States Patent No. 9,498,419 (the "419 Patent"). It is standard procedure for federal courts to take judicial notice of documents that are "integral" to evaluating the allegations of a complaint when presented with motions to dismiss pursuant to Rule 12(b)(6). *See, e.g., In re Burlington Coat Factory Sec. Litig.*, 114 F.3d 1410, 1426 (3d Cir. 1997); *see also Tellabs, Inc. v. Makor Issues & Rights, Ltd.*, 551 U.S. 308, 322 (2007) ("[C]ourts must consider the complaint in its entirety, as well as other sources courts ordinarily examine when ruling on Rule 12(b)(6) motions to dismiss, in particular, documents incorporated into the complaint by reference, and matters of which a court may take judicial notice."). This includes PTAB filings. *See CANVS Corp. v. United States*, 118 Fed. Cl. 587, 590 n.3 (2014) ("The court may take judicial notice of PTAB [Patent and Trial Appeal Board] filings."). Here, the testimony by Olaplex's expert confirms that Olaplex cannot state an infringement claim based on the facts alleged in the SAC.

For the foregoing reasons, L'Oréal USA respectfully requests that the Court take judicial notice of Exhibit A attached hereto.

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